IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

THURSDAY, THE 16TH NOVEMBER 2006 / 25TH KARTHIKA 1928

Crl.MC.No. 400 of 2004()

ST.3052/2003 of JUDL. MAGISTRATE OF FIRST CLASS COURT-II, THRISSUR

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PETITIONER: ACCUSED NOS. 1 AND 2

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1. C.K.SATHYA NARAYANAN,
   S/O.C.K.MENON, MANAGING PARTNER NALSAR INDIA,
   XIV/663, D2, VYASA NAGAR,
   GURUVAYUR ROAD,
   POONKUNNAM P.O., THRISSUR - 680002,
   RESIDING AT ROHINI, LENIN NAGAR,
   POONKUNNAM, THRISSUR - 680 002

2. T.K.PRADEEP,
   S/O.K.ANANDAN, PARTNER OF
   NALSAR INDIA, XIV/663, D2
   VYASA NAGAR, GURUVAYUR ROAD,
   POONKUNNAM P.O., THRISSUR - 680 002
   RESIDING AT 1/4 KUDAPULLY HOUSE,
   SANKARAYYA ROAD, THRISSUR - 680 004.

BY ADV. SRI.K.GOPALAKRISHNA KURUP

RESPONDENTS: COMPLAINANT AND STATE

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1. "M/S.ANCIENT REMEDIES OLLUR" A
   PARTNERSHIP FIRM REP. BY ITS MANAGER & POWER
   OF ATTORNEY OF ITS MANAGING PARTNER
   MRS. SANTHA BRAHAMANI AMMA
   GOPALAKRISHNAN S/O.KOCHUGOVINDA PANICKER,
   EDAYAPPURATHU HOUSE, MARATHAKKARA, THRISSUR.

2. STATE OF KERALA,
   REPRESENTED BY THE PUBLIC PROSECUTOR,
   HIGH COURT OF KERALA, ERNAKULAM - 682 031.

BY ADV. SRI.K.RAMAKUMAR
SRI. GIKKU JACOB, PUBLIC PROSECUTOR

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON 16/11/2006,THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.R. UDAYABHANU, J

CRL. M.C. NO. 400 OF 2004

Dated this the 15th day of November 2006

ORDER

The petitioners are the accused in S.T. No. 3052/2003 in the file of Judicial First Class Magistrate, Thrissur with respect to the offence under section 138 of the Negotiable Instruments Act. The petitioner/accused has contended that the first respondent/complainant is a partner of the firm against which and the partners of the same the proceedings have been initiated. According to the petitioners, on the above grounds and also on the grounds that there was a dispute with respect to the amounts due to the accused firm from the complainant and that the Managing Partner of the complainant firm had initiated proceedings against the accused for the dissolution of the firm and notice have been issued by the petitioners demanding payment from the complainant and for settling the accounts and also stop payment memos have been issued to the bank, the proceedings are not sustainable. The petitioner has also pointed out that the court had dissolved the accused firm with effect from 01.04.2003. It is also pointed out that the proceedings have been initiated beyond the period prescribed in section 142 (b) of the N.I.

Act. The contentions are denied by the first respondent/complainant.

I find that the matters raised would depend on the establishment of facts alleged which can be done only on appreciation of evidence. In the circumstances, the Crl. M.C is disposed of with the direction that the petitioners may raise above contentions before the court below and court shall consider the above contentions on merits. Accordingly, the Crl. M.C is disposed of with the above directions.

K.R. UDAYABHANU, JUDGE.

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